Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. 01-

In The
Supreme Court of the United States

GEORGE E. McDERMOTT
Petitioner
vs.
ANDREW CLIFFORD MOORE
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR A WRIT OF CERTIORI

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Dated: 10/2/02
Re-filed after deficiencies corrected: 10/11/02

QUESTIONS PRESENTED

1 DID THE APPELLATE COURT APPLY AN IMPROPER STANDARD OF CONSTRUCTIVE DISCHARGE OF CLAIMS WHICH WAS INCONSISTENT WITH THE RULE OF LAW AND BETTER REASONED DECISIONS OF THIS COURT AND OTHER APPELLATE COURTS OF THIS NATION BY APPLYING A SUBSTANDARD LEVEL OF REVIEW INCONSISTENT WITH THE EVIDENCE PRESENTED AND DISREGARDING COURTS OFFICIAL RECORD ON APPEAL.

2 DID APPELLATE COURT CLERK IMPROPERLY DISMISS PETITIONER'S CLAIMS OF RELIEF IN VIOLATION OF F.R.C.P. RULE 58 BY DRAFTING AND MAILING OF UNAUTHORIZED OPINIONS, UNSIGNED JUDICIAL ORDERS, AND ALLEGED DENIALS OF MOTION FOR REHEARING, IN THE ABSENCE OF ANY SIGNED JUDICIAL ORDER, OR OFFICIAL SIGNED JUDICIAL DIRECTIVE FROM A JUDGE OR THE PANEL JUDGES ALLEGED TO HAVE REVIEWED PETITIONER'S CLAIM OF RELIEF UNDER RULE 60 (B) (3-4)

3. IS IT NOT TRUE THAT OUR COURTS OF LAW AND EQUITY ARE BOUND UNDER CONTRACT LAW, TO UPHOLD AND ENFORCE THE LAWS OF THE UNITED STATES, THE CONSTITUTION, OUR BILL OF RIGHTS, AND THE RULES, STATUTES AND REVISIONS TO THESE LAWS CONTAINED WITHIN THE U.S.C.A. AS OUR CONGRESS ADOPTED AND MADE LAW, PURSUANT TO TITLE 28 U.S.C. 2072 AND TITLE 28 U.S.C. 2074 (A)(B) AS LAST REVISED AND SIGNED INTO LAW 12/1/01 BY THE HONORABLE JAMES F. SENSENBRENNER, THE ESTEEMED CHAIRMAN OF THE COMMITTEE OF THE JUDICIARY COMMITTEE FOR THE, 107TH CONGRESS?

4. AT WHAT POINT AND UNDER WHAT AMENDMENT WAS F.R.C.P. RULE 28 UNDER TITLE 28 U.S.C. 2072 CHANGED? DID THE CHIEF JUSTICE SUBMIT TO THE HOUSE JUDICIARY COMMITTEE AN OFFICIAL PROPOSED RULE CHANGE TO F.R.C.P. RULE 58 WHICH ABOLISHED THE LEGAL REQUIREMENT THAT OUR COURTS, JUDGES. AND COURT CLERK'S, AUTHENTICATE JUDICIAL ORDERS, OPINIONS, AND DECISIONS, AFFECTING CITIZENS RIGHTS TO PROPERTIES AND TO MAINTAIN SUITS AT LAW IN EQUITY AND TO RECOVER FOR THE LOSS OF THESE VESTED RIGHTS?

PARTIES TO THE PROCEEDINGS

Parties to the proceeding in the Fourth Circuit Court of Appeals are those in the caption as best as petitioner can determine. Petitioner had requested clarification from this court as to which parties should be included in the caption of the case. Throughout the entire course of these proceedings, the Bankruptcy Court, the United States District Court and United States Court of Appeals, have allegedly allowed respondent's counsel and others permission to withdraw while the matter was still on appeal. These courts lacked proper jurisdiction and authority to grant such an order.

Petitioner, therefore, out of an abundance of caution, obtained the court's docket which list the following parties to the proceeding.

Andrew Clifford Moore debtor / respondent
Janet M. Nesse, Esquire, debtor's counsel
Lynne A Battaglia, past U.S. attorney for MD, currently appellate judge
Paul Bradenhagan, Executive Office of the United States, Trustee
Perry F. Sekus, [COR LD NTC] Attorney, interest unknown
Lawrence McWhorter, U.S. trustee, case administrator of debtor o
Martha L. Davis, general counsel for the United States trustees
Solicitor General United States Justice Department, General counsel

Petitioner Pro Se had respectfully asked for direction from the Supreme Court to clarify the conflicting rules of this court. The Motion to Clarify meaning of courts rules and questions presented was denied on 9/18/02 by Deputy Clerk Jeffrey Ladd stating that Supreme Court did not have any provisions to clarify its rules and questions.

Petitioner Pro Se has appended to the petition a Lodging Appendix of attested documents for inclusion in the official record as permitted by the rules so that the court and the reviewing appellate panel can easily verify assertions put forth by petitioner. These official court documents listed above giving reference to the prior record can be found in L. APP 52 - 53, 75, 158, 162, and 163. This court is asked to take *judicial notice* under Federal Evidence Rule 44(a) as the documents in the Lodged appendix represent proof of the official record before this court.

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Petitioner hereby petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the Court of Appeals (appear *infra, pp* . 1-2) is recorded in 33 Fed. Appx.148; 2002 U.S. APP. Lexus 8331, April 25th 2002, submitted, May 1, 2002.

Prior appellate cases involving same parties in same action:

1. In re Moore, No. 01-2497, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 33 Fed. Appx. 148; 2002 U.S. App. LEXIS 8331, April 25, 2002, Submitted, May 1, 2002, Decided, RULES OF THE FOURTH CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT.

2. McDermott v. Moore (In re Moore), No. 00-1888, No. 00-2034, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 2 Fed. Appx. 304; 2001 U.S. App. LEXIS 878, January 18, 2001, Submitted, January 23, 2001, Decided, RULES OF THE FOURTH CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT., Reported in Table Case Format at: 2001 U.S. App. LEXIS 6833.

3. McDermott v. Moore (in Re Moore), No. 00-1888, No. 00-2034, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 243 F.3d 539; 2001 U.S. App. LEXIS 6833, January 18, 2001, Submitted, January 23, 2001, Decided, DECISION WITHOUT PUBLISHED OPINION

4. McDermott v. Moore (In re Moore), No. 98-1800, UNITED

STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 1998 U.S. App. LEXIS 32592, December 17, 1998, Submitted, December 29, 1998, Decided, RULES OF THE FOURTH CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT., Reported in Table Case Format at: 1998 U.S. App. LEXIS 37816.

5. McDermott v. Moore (In re Moore), No. 98-1800, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 168 F.3d 482; 1998 U.S. App. LEXIS 37816, December 17, 1998, Submitted, December 29, 1998, Decided, DECISION WITHOUT PUBLISHED OPINION

6. McDermott v. Moore (In re Moore), No. 96-2395, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 1998 U.S. App. LEXIS 8816, April 14, 1998, Submitted, May 5, 1998, Decided, RULES OF THE FOURTH CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT., Reported in Table Case Format at: 1998 U.S. App. LEXIS 19486.

7. McDermott v. Moore (In re Moore), No. 96-2395, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 145 F.3d 1325; 1998 U.S. App. LEXIS 19486, April 14, 1998, Submitted, May 5, 1998, Decided, DECISION WITHOUT PUBLISHED OPINION

PRIOR RELATED PROCEEDINGS IN THIS COURT

8. McDermott v. Kansas No. 97-6738 SUPREME COURT OF THE UNITED STATES. 522 U.S. 1060, 118 S. Ct. 718; 139 L. Ed. 2d 659; 1998 U.S. Lexis 245; 66 U.S.L.W. 3456; January 12, 1998 Decided.

9. McDermott v. Kansas No. 97-6738 SUPREME COURT OF THE UNITED STATES, 522 U.S. 1144, 118 S. Ct. 1119; 140 L. Ed. 2d 168; 1998 U.S. LEXIS 13999; 66 U.S.L.W. 3558; February 23, 1998, Decided.

These decisions are reproduced in the Appendix hereto.

BASIS FOR JURISDICTION

The judgment of the Court of Appeals was entered on May 1s,t 2002. The rehearing *en banc* was denied on June 7th, 2002.

This court granted petitioner an application for extension of time for which to file this petition for Writ of Certiorari up to and including October fifth of 2002.

This court has jurisdiction under 28 U.S.C. §1253 and 28 U.S.C. §1254 (1)-(2), and United States Constitution amendments thereto under Article II, Article III, Article IV, the 7th Amendment and 14th Amendment to the Constitution. The Petition is timely under Rule 13.1 of the rules of this Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS AND RULES INVOLVED

COMMON LAW

In suits and common-law, where the value in the controversy exceeds $20, the right of trial by jury shall be preserved, and no fact tried by jury shall be otherwise re-examined in any court of the United States, other than in accordance to the rules of Common Law.

U.S.C. 28 § 1654

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel, and, by rule of such courts respectively, are permitted to manage and conduct cases therein, is not so vague and indefinite that it violates the essentials of due process of law secured by U.S.C.A. Const. Amend. 5 which provides for self representation. The duty of the court is implicit in the right to self representation and its obligation on part of the court to make reasonable allowances to protect Pro Se litigants from inadvertent forfeiture of important rights because of their lack of legal training.

42 U.S.C. § 1983 Civil Actions for Deprivation of Rights

Every person who, under color of any statute ordinance, regulation, custom, or usage, of any state or territory or District of Colombia subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right to, privileges, or immunity secured by the Constitution and laws shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings, for redress. For the purposes of this section any act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 U.S.C. § 1986 Action for Neglect to Prevent

Every person who having knowledge that any of the wrongs conspired to be done, and mentioned in Section 1985 of this Title, are about to be committed, and having the power to prevent or to aid in the preventing the commission of the same, and neglects or refuses so to do. If such

wrongful act to be committed, shall be liable to the party injured or his legal representatives for all damages caused by such wrongful act, which such person by the reasonable diligence could have prevented ~~such~~ damage may be recovered in an action on the case; and any number are person is guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party because by any such wrongful act and neglect the legal representatives of the deceased shall have such action therefore,....

42 U.S.C. §1988 Proceedings in Vindication of Civil Rights
(a) Applicability of Statutory and Common-law

The jurisdiction and civil and criminal matters conferred on the district courts by the provisions of Titles 13, 24, and 70, of the Revised Statutes for the protection of all persons in the United States in their Civil Rights and for their vindication shall be exercised and enforced in conformity with the laws and of the United States, so far as such calls are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are efficient and provisions necessary to furnish suitable remedies to punish offenses against the law, the common-law, as modified and changed by the Constitution and statutes of state or and courts having jurisdiction of such civil or criminal causes is to be held, so far as the same is not inconsistent with the Constitution and laws of the United States, ...

42 U.S.C. § 1988
(b) Attorney's Fees

In any action or proceeding to enforce the provisions of sections 1981, 1981a, 1982, 1983, 1985, and 1986 of this title, ... the court, in its discretion may allow the prevailing party, other than the United States, reasonable attorneys fees as part of the costs.

F. R.C.P. Rule 60 Relief from a Judgment or Order
(a) CLERICAL MISTAKES.

Clerical mistakes and judgment, orders or other parts of the record and errors therein and arising from oversight or omission may be corrected by the court at any time of its own initiative or on the Motion of any party after such notice, if any, as the court orders. During the pendency of an

appeal, such mistakes may be so corrected before the appeal is docketed in the Appellant court, and thereafter while the appeal is pending, may be so corrected with leave of the appellate court.

(b) MISTAKES; INADVERTENCE; EXCUSABLE NEGLECT; NEWLY DISCOVERED EVIDENCE; FRAUD, ETC.,

On Motion and upon such terms as are just, the courts may relieve a party or any parties legal representatives from a final judgment, order, or proceeding for the following reasons; (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore demonstrated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The Motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment order, or proceeding was entered or taken. A Motion under to this subdivision (b) does not affect the finality of the judgment or suspend its operation. This rule does not limit the power of the court to entertain an independent action to relieve any party from a judgment order, or proceeding, or to grant relief to a defend it not actually personally notified as provided in Title 28 U. S. C. §1655 or to set aside judgment for fraud upon the court. Writs of coram nobis, corum vobis, audita querela, and bills of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or b an independent action. (As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec, 29, 1948, eff. Oct. 20, 1949; Mar. 2, 1987, eff. Aug. 1, 1987).

STATEMENT OF THE CASE

As will be demonstrated below, petitioner George E. McDermott loyal citizen, businessman, husband, father and partner has worked diligently and tirelessly for the recovery of his and his partners business interests stolen from him by respondent, the corporate counsel for said business, respondent's insider who is the alleged brother-in-law of local Maryland judge. One of the insiders also happens to be a disbarred Maryland attorney and two-time federal felon. These insiders and the corporation's counsel have fraudulently and unjustly, and relentlessly prosecuted petitioner and his wife in an effort to steal petitioner's home under color of law and authority, after stealing petitioner's business. [L. App. 164]

Petitioner acting in good faith filed an adversary proceeding, Case No. 95-1249 on June 6, 1995, a fraud complaint seeking relief from the Bankruptcy court against respondent, for the recovery of moneys and properties the respondent and court insiders had taken from petitioner and his partners under a fraudulent bankruptcy scheme. The respondent filed for personal bankruptcy protection on Sept. 23rd, 1988 less than one year after acquiring controlling interest in Crystal Skates of Maryland, Inc., the general partner of Crystal Skates Limited Partnership. The assets of Crystal Skates assets were encumbered fraudulently, by two banknotes. The first note was held by First American Bank of Maryland and its successor First Union Bank, and the second was held by Suburban Trust Company and its successor Sovran Bank and its successor Bank of America. [L. App. 153, 167]

Petitioner was unaware at the time that respondent, his corporate counsel and other insiders had fraudulently altered the alleged sales agreements of September Sept. 24th, 1987 without the knowledge and/or consent of petitioner. The altering of these documents automatically voided the alleged contract. This fact that has been proven now in a court of law. [L. App. 124-145]

Respondent was removed from his position as managing officer of the corporation in 1988, less than one year after ascending to chief financial officer of C.S.L.P. and C.S.M. This action was taken after other partners became aware of respondent's bankruptcy and the severity of financial losses in the business during his tenure. These losses included

the conversion of almost $225,000 of income collected for payment of federal and state taxes. Respondent allegedly converted these funds to his own personal use and that of insiders. [L. App. 153]

Petitioner asserts and the record will reflect he acted in good faith in accordance with the law to try to comply with the unreasonable, unconscionable conditions put on him and his partners by respondent's counsel and the United States Bankruptcy Court, working under color of law and authority to conceal the fraudulent actions of respondent. [L. App. 154, 158, 196]

In 1995 after finding that respondent and insiders of the court were committing further fraud's on the court the petitioner properly reported these actions to the United States trustee on March 24th, 1995 as court documents will attest to. However the U. S. trustee Lawrence McWhorter made it very clear that he would do nothing to stop the criminal acts of debtor, his counsel and they insiders. [L. APP #153]. These actions were a month in half before debtor and his insiders converted titles to petitioner's home and business to respondent's and his insiders - Peter Parker and Wayne A. Bowie, with the help of Janet Nesse, Esq. debtor's counsel. [L. App. 154-158]

At the time of filing the adversary complaint on June 6, 1995 petitioner had no idea that respondent and his insiders allegedly had consummated their alleged illegal purchase agreement. The respondent's insiders then fired petitioner from his own business. The purchase agreement has since been found to be a fraud by a jury of petitioner's peers in Prince Georges County Circuit Court (CAL 95 - 26059). On July 7th, 1995 Peter Parker and Wayne A. Bowie filed a civil law suit in Prince Georges County Maryland Circuit Court asserting false and fraudulent claims of relief against petitioner. The claim was that petitioner was in breach of contract, in civil action (CAL. 95 13288) [L.App171-175]. This case has been vacated by the trial judge, overturned by jury of peers in 1998 and has been confirmed twice by the Maryland Court of Special Appeals and is presently back in the Court of Special Appeals seeking relief from an unjust dismissal [L..App 71-74] due to judicial interference from insider brother-in-law of insider Peter Parker - Judge Thomas Smith. Prince Georges County Circuit Court Judge.

On July 17th 1995 the Bankruptcy Court had a Motion hearing

which was held before Judge Paul Mantis. The lawful relief of stay was denied on the grounds that the court was without jurisdiction or authority to address debtor's and his counsel's fraud on the court and to remove the liens on petitioner's home . [L. App. 64].

At the time of the July 17th, 1995 hearing, petitioner was unaware of secret documents transferring all of debtor's business debts to petitioner. This was part of an elaborate bankruptcy fraud scheme between respondent and insiders Peter Parker, Wayne A. Bowie and their counsel [L..App 148-152].

On October 10th, 1995 petitioner filed for and received 15 federal subpoenas which were duly served on the parties seeking lawful discovery which all but one were ignored. [L. App.65-66]. However the one answered subpoena led to the discovery of numerous a secreted sales and transfer documents by and between respondent/debtor and other court insiders, evidencing executory, contracts that were not authorized by the court and therefore void as they breach the court rules.

On Oct. 10th the petitioner found also out that the bankruptcy court had scheduled a second hearing for release of properties from liens scheduled for October 19th, 1995. But as before, no notices to creditors or parties of interest were found in court file. All relief was denied for want of jurisdiction. ??? [L. App. 66]

The alleged illegal, unnoticed hearing was held October 19th, 1995 in which an alleged visiting judge, Gerald Shift from Appaloosa, Louisiana presided over proceedings in which the alleged judge also **denied petitioner all lawful relief requested by Creditor stating that fraud on the court was not of his concern and that court was without jurisdiction to provide any remedy at law** a fact that can be verified by the hearing transcripts of the alleged trial/hearing [L. App. 66].

Petitioner filed a timely notice of appeal to the United States District Court in Baltimore, MD. docketed October 24th, 1995 as can be verified in the record [L. App.52-56].

On December 18th, 1995 petitioner. while checking the bankruptcy court docket, discovered the bankruptcy court had scheduled a secret dismissal hearing scheduled for December 21st, 1995 while case

was legally on appeal to the United States District Court. Petitioner prepared and filed objections which are on the record. Petitioner attended the illegal proceeding to perfect the record for appeal. Once again no parties of interest or creditors were notified of the secret unscheduled proceedings which would divest them of all their legal rights and properties [L. App 68, 154-158].

Petitioner has been challenging this alleged illegal dismissal since December 21st, 1995 after presiding Judge Paul Mannes made it clear exactly what the Court's position was when he stated to petitioner during the trial on the record that he and his court could care less if respondent had stolen $2 million from petitioner and his partners before he went into bankruptcy protection, it was not a matter before his court?

From December 21st, 1995 to the present petitioner and his family have been maliciously prosecuted by respondent and his counsel, Jeffrey Harding, Esquire who represents court insiders Peter Parker, Wayne A. Bowie, Andrew Clifford Moore/respondent, Crystal Skates Limited Partnership and Crystal Skate of Maryland Inc., as well as Kansas Associates, Inc., their agents, assigns and unknown partners. All parties have a single goal - to destroy petitioner. [L. App. 66]

Over the years Kansas Associates, Inc. and Peter Parker and Wayne A. Bowie have hired outside counsel to force petitioner into financial ruin, including the bankruptcy of ADI Interiors, a business that this petitioner had started. Court action was also taken for debts of the partnership that they had control of. Respondent and his insiders had already converted Crystal Skates assets to the new corporation as part of their bankruptcy scam. [L. App. 76-79]

Petitioner asserts the record of proceedings from December 21st, 1995 to September 27th, 1999 clearly shows a pattern of judicial abuse unprecedented in the annals of law. The courts' dockets clearly reflect that lawful relief was requested. However the case files and file jackets contained within the courts and the alleged official records have been dismantled, destroyed, and distorted by the actions of the Bankruptcy Court, United States District Court in Maryland for Baltimore and United States Court of Appeals in Richmond VA. For the record, petitioner has never received a judicially signed order dismissing Andrew Clifford Moore from his obligations under the United States Bankruptcy Code from

his legal obligation under the United States Title 11 Bankruptcy Code. [L. App. 18-24, 95-96, 183, 185]

On September 27, 1999 debtor filed a motion a for final order formally closing the aforementioned case. This was immediately challenged for its illegal content. All alleged proceedings from September 27. 1999 through September 27th, 2002 have been done in secret. Also the record shows that the courts have been keeping multiple dockets reflecting disinformation and fraudulent unsigned orders to cover up for the participation of court insiders covering up the criminal acts of court officer and their agents. To this day Creditor nor his counsel have ever fulfilled the requirements of the court. No docket entries can be found in the court or order closing the case. There is no filing by the debtor of the final accounting reflecting amounts paid to creditors in the classes and some classes, as well as amounts paid to date to the holders of unsecured claims.. [L. App. 69, 154, 158]

Petitioner will submit evidence that is refutable in nature that debtor never in fact sold C.S.L.P and C.S.M. to Peter Parker, as alleged court documents attempt to show but in fact respondent is at the helm in a wheel and spoke criminal conspiracy that has allowed respondents and his agents to steal petitioner's business while insiders encumbered the title to his home with $600,000 plus in judgments for the debts respondent shed in bankruptcy protection [L. App I23-124].

Mr. Andrew Clifford Moore is still a debtor possession subject to the Court rules, contrary to all the unsigned orders allegedly contesting otherwise. Petitioner puts into the record documents stating these facts. They cannot be refuted by this Court or any other court in this nation. [L. App. 1-200]

STATEMENT OF IRREFUTABLE FACTS

1 respondent's alleged contract to buy into Crystal Skates Limited Partnership and Crystal Skates of Md., Inc. was never fulfilled. Further it is void as a matter of law because debtor and corporate counsel conspired to alter the contract documents of September 1987. [L. App. 142, 153-154]

2 respondents misappropriation of $225,000+ of partnership funds to his

own personal accounts from 1987 to 1988 voided any alleged contract the respondent might have held. Respondents shares in the corporation were never released from escrow due to his breach of contract and criminal behavior in office.

3 respondent's failure to report the receipt of $225,000 in cash income on his financial disclosure statement to United States Bankruptcy Court voided any relief he may have been entitled to under United States Bankruptcy Code. He purposely tried to cheat the system by proceeding in bad faith. [L. App. 153]

4 respondent's falsifying of corporate and partnership books and tax returns to conceal his embezzlement of $225,000 of partnership funds intended for the payment of federal and state withholding taxes and state amusement taxes voids any relief he may have had under bankruptcy law. [L. App. 156]

5 respondent entered into the unauthorized renewal of and modifications to bank notes of the partnership and corporation in 1991 shifting his debt to petitioner without petitioner's express knowledge and/or consent. Additionally, respondents actions were not unauthorized by the bankruptcy court and were criminal in nature and also been found to be fraudulent by three separate juries of petitioner's peers. [L. App. 107, 124]

6 The land records of Prince George County clearly show that respondent has and is continuing to use aliases and assigns to convert millions upon millions of dollars worth of real estate assets in secret from the bankruptcy court from 1987 to 2001 while still enjoying the bankruptcy court's protection. These secret transactions were done by respondent. without seeking court approval or notifying lawful creditors and parties of interest of the secret transfers. [L. App. 171-175]

7 respondent's transfer of partnership and corporate assets to insiders Peter Parker and Wayne A. Bowie allegedly for five dollars plus take over of all Crystal Skate's debt has been proven to be a fraud by two juries to date. Respondent's agents have been found guilty of commercial fraud, deceit, duress, and undue influence in contracts, as transcripts in the court's record will attest to. [L. App. 149, 150, 152-153]

8 the court cannot refute that the lower courts have been keeping multiple

dockets for the same case actions. Courts have produced numerous unsigned per curium. in camera. decisions and opinions without any evidence ever so slight that the procedural guidelines, and checks and balances mandated under Court rules were ever followed. Most egregious of all, is that not one creditor or party of interest has been notified as per Court rules of any of the proceedings involving the bankruptcy of respondent since the order confirming respondents bankruptcy plan was issued April 12 1991. Not one notice was sent to creditors or lawful parties of interest regarding the proceedings for the last eleven years by the Court, the United States trustee overseeing actions, the respondent, or his counsel, as required under the bankruptcy code. [L. App. 5-8, 9-11, 16, 95]

9 this Court nor can any other court in this nation can deny that the petitioner acted responsibly as a citizen in notifying the proper legal authorities as to the criminal conduct of respondents, his agents and court insiders pursuant to 18 U.S.C. § 3057 of the United States criminal code as is required bylaw. [L. App. 12, 13, 23, 97, 101, 104, 153-154]

Neither the Supreme Court or any other Court or any judge or person of reason, can refute that respondent's insiders and their agents still **hold title to respondents home** and **petitioner's home** even though these insiders have had possession of Crystal Skates with its assets valued in excess of $2 million, along with receivables estimated at $13 million over the past seven years in direct violation of court findings, juries findings and their own testimony. These insiders have been using these funds to pay corrupt, crooked, corporate lawyers, to sue and unjustly prosecute petitioner and deny him legal due process in our courts of law. [L. App. 97, 186-187]

11 this Court as a Supreme Court of the United States of America cannot refute that the Constitution and U.S.C. code and statutes as enacted by the Congress and the United States of America are the rule of law. The rule of law enumerated under Title 11 Bankruptcy Code is a binding contract between creditors, the United States government, which by law is to oversee bankruptcy proceedings under the Justice Department's oversight and administration, administration of trustees, courts, to respondents/debtor's and possession as outlined in 11 U.S.C. § 101. [L. App. 153]

12. This Court as a Supreme Court in the United States cannot deny the record that relief was sought in 1997 Case No. 97-6738 in this very court, seeking relief from a fraudulent judgment involving respondent's insiders and that petitioner properly petitioned this Court for just relief identifying respondent and his insiders as the adverse party. Further that petitioner provided proof of Bankruptcy fraud, bank fraud, embezzlement, extortion, and racketeering influence to the justices of this Court, which a jury of petitioner's peers ultimately affirmed, however the Justices declined to hear the case [L App. 153-156, 161, 186-187].

13. This Court cannot refute that the alleged opinion of January 23rd 2001 was both unsigned and unsealed [L. App 184-185]. Further that the appellate court's own records of March 28, 2001 clearly refute that any legitimate order or process can be found to authenticate the alleged order. Court specifically states that ***signed judicial orders and certified copies are not normally contained as part of the case file and were not part of the case file in your case***. Logic 101 no order was in the file on my case. It's a sham and a coverup. [L. App. 3, 16, 17, 23, 26]

Pro Se petitioner will now move to incorporate these irrefutable facts that are part of the official record of the appellate court and this Court into this the Supreme Court of the United States official record, in the belief that this Court should once and for all make the final determination as to whether respondent's dismissal from bankruptcy protection was a fraud or not. [L. App. 33-36, 39-42, 47-57, 62]

REASONS FOR GRANTING THE PETITION

This petition for Certiorari arises from an extraordinary and highly unusual set of facts and circumstances emanating out of the inferior appellant courts actions. These opinions from the lower courts so defy the Constitution so as to bring into question the credibility and authenticity of the inferior courts judgment or lack thereof. The alleged decisions of the Fourth Circuit Court of Appeals so conflict with the Constitution, the rule of law, and the better reasoned authority of this Court and all other Appellant courts that if let stand, it would surely diminish the integrity of our Courts and the trust in the judicial process in this nation and the rule of law as we know it.

In preparation for this petition the Pro Se petitioner has reviewed

and analyzed a number of sample petitions. He has ascertained, to the best of his knowledge, that the purpose for Petition for Certiorari in the Supreme Court is not to argue your case. The real purpose is to summarize the case for the Court and the justices. To give the history of the litigation giving rise to the petition, pointing out obvious flaws in the record and inconsistencies with the law in the opinions, orders, and actions of the inferior courts decisions and decision-making process that would warrant a review by this our nation's highest court and the court of last resort. I have noticed that other petitioners have felt it necessary to include case law references and rules in support of petition that have been applied in other Appellant courts and jurisdictions so that this Court has a basis for which to support the petitioner's claim of relief.

The purpose of this process is, as a Pro Se litigant might interpret it, one of judicial economy, where petitioner presents the record to the Court in a condensed format . Petitioner appropriately responds correcting the record and summarizing for the Court errors and omissions that would warrant the Court's granting of cert. It is now estimated that the Supreme Court receives approximately 5,800 to 6,500 cases per year for review and the Court only has capacity to select between 90 and 115 of these cases. This implies that one must truly show the Court that the matter a petitioner brings before this Court, must be a matter of great Constitutional significance. The petition must point out with clarity that if the lower courts opinions are allowed to stand undisturbed they would create a Constitutional conflict with the previous opinions of this Court and other Appellant courts to such an extent and degree as to present the possibility of grave Constitutional crisis within this Nation's courts and promote a false theory that the Rule of Law, the prior decisions of this Court, the Constitution, and the Bill of Rights, have no possible legal application in our Nation's courts of law. Which obviously is incorrect.

The facts giving rise to this petition are undisputed. Neither petitioner nor respondent deny the following facts.

a. petitioner was forced into a contract between the United States government, respondent, his counsel, United States trustee when respondent voluntarily and of his own free will, filed a petition for Chapter 11 bankruptcy protection on September 23rd 1987 [L. App. 188].

This is a recorded fact that neither petitioner nor respondent can deny. Under Title 11 U.S.C. and statutes thereof, this filing was binding on debtor, creditors, their agents, there assigns, the trustee, and the courts. Each party having a duty and obligation to proceed in good faith and in strict compliance with the procedures rules and regulations made into law under Title 11 U.S.C., annotated by Congressional amendments thereto, and by authority of the 107th Congress and its predecessors. If the system is to work in fair and just manner that truth and the law of evidence must prevail in all cases. [L. App. 153]

As a noted ancient philosopher Rebulis once stated thousands of years ago:

A rule is a rule and a law is a law and all must be obeyed

Whether or not the appellate courts acted properly or inappropriately, whether or not they made their decisions and opinions in the aforementioned actions in conflict with the established rule of law is a determination that this Court will address one way or another. Pro Se petitioner can only present the facts to this Court along with the lower court's record. Petitioner can buttress these facts with the dockets of the many lower court's cases preceding this petition. For this record, petitioner once again asserts that the opinions, judgments, and orders of the lower courts are grossly inconsistent with our Constitution to and the codified Rule of Law.

In preparing for filing this petition with the Court, Pro Se petitioner has diligently researched the background and the history of following rules:

> 28 U.S.C. Rule 2072; F.R.C.P. 60, 66, 77, 79, 80, 81, 83-85 and 86.

Petitioner has been unable to find anywhere where the District Court and Appellant Courts are exempted from strictly adhering to the contents of these rules. [L. App. 11, 12, 177, 179, 180]

Pro Se petitioner asserts that in order for this Court to have the basis of rendering its decision, there must be a foundation laid out by the petitioner supported by factual evidence and the Courts own authenticated

record as to prior related proceedings leading up to petition. Clearly if one is to get the attention of this Court he will not do so through baseless innuendo and by asserting uncorroborated facts into the record to induce this Court to act.

Of course, in determining whether or not in Pro Se petitioner has sufficiently presented his case the Court will undoubtedly have to know and examine underlying facts to adequately the determining strength of petitioner's assertion that the United States Bankruptcy Code is a lawful binding contract between the state and citizens. Petitioner must convince the Court that official revisions and confirmations of the law relating to the **Bankruptcy Code** ***contract / agreement,*** formalized in the official code of laws of the United States with legally adopted revisions from the federal and state courts supports petitioner's contention that these codified laws of the United States are in fact a valid contract under which equitable relief is available under 11 U.S.C. § 101, 15 § U.S.C. Rule 77, and under 28 U.S.C. § 101.

Petitioner asserts that this bizarre odyssey started in September 1988, approximately 11 months and some days after respondent attempted to buy into petitioner's Corporation asserting certain promises which were never legally fulfilled, in exchange for stock. This stock was to be held in escrow until complete fulfillment of the alleged contract. This fulfillment never occurred. As of this date, there is no evidence ever so slight, that corporate attorney Donald L. Noble ever released the stock to respondent. Less than one year after entering into the alleged contract debtor voluntarily filed for bankruptcy protection as court records reflect. [L. App. 120, 154, 165]

A bankruptcy court order listing Janet Nesse as respondent's counsel was approved along with Motion for extension of time to file schedules and related papers with the Court. Unbeknownst to all creditors till years later, debtor knowingly falsified his financial disclosures statements with the Court and withheld from Court and creditors a great deal of assets that were transferred secretly to insiders to shield assets from lawful creditors, the courts and the IRS.

The record reflects debtor and his counsel grossly understated debtor's income for the twelve months prior to filing for bankruptcy by $225,000 which respondent had misappropriated from petitioner's. From

1988 until March 4th, 1991 respondent and his counsel manipulated the courts and frustrated creditors leverage to recover losses. Petitioner did not become aware until 1995 that respondent and his counsel, in order to get confirmation approved on April 12 1991, illegally and without creditors permission' altered corporate promissory notes shifting the burden of his debt to petitioner. It was from this ruling that petitioner learned of respondent's lavish lifestyle while under bankruptcy protection.

Petitioner reported these allegations of criminal activity to the U.S. Trustee who stated that petitioner's request was vague. In a memorandum dated March 24, 1995 In Re: Andrew Clifford Moore 88 -- 42476 PM it is recorded:

> *Mr. McDermott walked and with a box of documents and said he is losing his house because Moore stole one half million dollars from him before petition & Moore plays golf all day and takes three-month vacations. Just told him to contact a lawyer .* [L. App. *153, 154]*

Petitioner was unaware of respondent's activities wherein on November 21st, 1994 respondent signed over title of his shares in petitioner's business and altered business loans tied to liens to petitioner's home to insiders without the Bankruptcy Court's permission or approval. This removal of assets and altering of loan documents was a violation of court rules and procedures. [L. App. 119, 120]

Further petitioner was unaware respondent would once again execute executory contracts with Court insiders conveying business assets as well business loans to which liens were attached that affected the title to respondent's home on April 5th 1995. These liens for the business on the petitioner's home and respondent's home were used as collateral for to raise capital to fund the purchase of the business' assets. Once again there was no notice to the Court of the increase in respondent's debt, no notice to creditors, no notice to parties of interest, no notice of this illegal sale. [L. App. 120, 153]

In January 1995 the first of many lawsuits were filed starting this long odyssey.

Throughout the long history of this case there have been suits,

countersuits in the United States District Court, Maryland Circuit Courts, the Maryland District Court, Iowa District Court.

All of these cases emanate from respondent's actions in the bankruptcy matter and because of and arising out of the fraudulent conduct of respondent/debtor while operating under the protection in the shield of the bankruptcy court. This petitioner has tried to give some of the background in the statement of the case and in the statement of facts. Petitioner has also supplied the court with a supplemental lodged appendix that the court may verify assertions put forth by Pro Se Appellant. The record of the court is what it is. However, the record of the United States Court of Appeals in Richmond cannot be verified, since they refuse to verify or certify, and every opinion, order, and action regarding the authentication and verification of the process, which the courts are required to use in determining administering and issuing an Appellant decision are missing from the case file and file jackets of these various cases.

The constant throughout all proceedings is that Pro Se petitioner and his spouse have exercised their constitutional rights to bring or defend actions against them in a court of law. At last count their were approximately 62 court cases and 1,500 docket entries emanating out of debtor's fraud on court and creditors. These cases include numerous actions on appeal from unjust summary judgments and frivolous lawsuits respondent and his insiders have filed in an effort to steal petitioner's home. To date all of these lawsuits have been defeated as there were found to be based on fraud , deceit, duress, and undue influence in contracts, on the part of respondent and his insiders. In many of these actions, respondent testified for his insiders.

The one constant has been the conduct of the courts. In almost every case the record has been deficient, the orders which have been allegedly issued have not been signed. This is in direct violation of court rules. The specific cases are:

U. S. Bankruptcy Court Greenbelt, MD primary action
88 - 42746PM
U. S. Bankruptcy Court Greenbelt, MD .adversary action
95 1249 PM
U. S. District Court Baltimore Md. adversary appeal

95 - 3904 MJG
U. S. 4th Circuit Court of Appeals
#96 - 3295
U. S. District Court Greenbelt, MD fraud action
00-190
U. S. 4th Circuit Court of Appeals appeal from # 00-190
00-1888
U. S. 4th Circuit Court of Appeals
#00-2034
U. S. 4th Circuit Court of Appeals Rule 60 appeal from 95-3904
01-12497

The matter before the court today is the rulings of the Court of Appeals for the 4th Circuit which issued an unsigned opinion on 5/1/2002 and subsequent unsigned order denying the re-hearing *en banc* on 6/7/02.

The issue before this Court is one of irregularities, deficiencies and lack of record in the Appellant court. These items are not in conformity with the Constitution and Declaration of Rights that protects the rights, liberties and properties of our citizens. They protect us in obtaining just and fair relief in our courts of law. I believe the conduct of the court and its personnel was sufficiently deficient to require remedial action upon review by this Court,.

Petitioner asserts that the above referenced cases all emanate from the original bankruptcy case. The original action was based on fraud on court. As this case's history and the statement of facts clearly demonstrate, the question is did the actions and inactions by the court and negligent Standard of Conduct of the lower court's officers and employees violate the constitutional rights of the petitioner, his family, his partners and other creditors and parties of interest who were denied their day in court because of lack of notice.

ARGUMENTS PRESENTED as to QUESTIONS

1 DID THE APPELLATE COURT APPLY AN IMPROPER STANDARD OF CONSTRUCTIVE DISCHARGE OF CLAIMS WHICH WAS INCONSISTENT WITH THE RULE OF LAW AND BETTER REASONED DECISIONS OF THIS COURT AND OTHER APPELLATE COURTS OF THIS NATION BY APPLYING A SUBSTANDARD LEVEL OF REVIEW INCONSISTENT WITH THE EVIDENCE PRESENTED AND DISREGARDING COURTS OFFICIAL RECORD ON APPEAL.

As to question 1, did the Appellant court apply the standard of constructive discharge of claims consistent with the Rule of Law and better reasoned decisions of this and other Appellant courts of this nation? By all reasonable standards there is sufficient evidence to prove that yes the Appellant court, the District Court, and the bankruptcy court, all applied a substandard level of review which can be verified by the record.

The first error the court committed was failing to notify all creditors and parties of interest of adversary proceedings from June 7th, 95 to the present. The record will reflect that there is no notices to any parties of interest, creditors, or their counsel, and the last notice to creditors was docketed September 27th. 1990 as docket entry 39 which states:

> *notices to creditors and all interested parties of rescheduled hearing date for confirmation of plan Nov. 27th 90, 2 PM with certificate of service attached.*

Surely the court erred in not sending notices to creditors for years knowing it was a prerequisite to a discharge. See: In Re: Johnson D.C. Ark. 1908, 158 F. 342, 19 Am. Bankr. Rep. 814.

Surely all these courts knew the bankruptcy rules regarding discharge and the rights of creditors to recover for failure to follow these rules.

> *Where bankrupt gave no notices to creditors of application for discharge, discharge was properly set aside on application of creditors nine years after it was granted regardless of whether creditors were harmed by the failure*

to give notice. In re: Stilwell, C.C.A.N.Y. [94], 120 F.2d 194, 46 Am. Bankr. Rep. N.S. 4.

Failure to give notice of application for discharge is grounds for vacation of discharge. Rash v. Metzger, C.C.A.Pa. 1929, 31 F.2d 424 13 Am.Bankr. Rep. N.S. 434.

Whether or not the appellate court erred by issuing alleged unsigned opinions to and orders time after time granting respondent release of obligations to creditors sufficiently violated the constitutional rights of the creditors is a matter this Court will answer shortly. However, 11 U.S.C. § 342 requires the clerk of the court to give notice to creditors this applies to clerk of the bankruptcy court, clerk of the District Court, clerk of the local Appellant court, and yes the clerk of the United States Supreme Court. As long as the matter involves the debtor/creditor relationship. The rules prescribe to whom the notice should be sent and in what manner notices will be given. The rules already prescribe such things, and they will continue to govern unless changed as provided in Section 404(a) of the bill, referring to the 1978 Bankruptcy Reform Act. Due process will certainly require notices to all creditors and equity surety holders. As found in Senate Report No. 95-989. **This Creditor has never received one notice from the court or respondent's attorney since the notice of September 27th, 1990.** All proceedings thereafter were fraud irrespective of the appellate Court orders.

2 DID APPELLATE COURT CLERK IMPROPERLY DISMISS PETITIONER'S CLAIMS OF RELIEF IN VIOLATION OF F.R.C.P. RULE 58 BY DRAFTING AND MAILING OF UNAUTHORIZED OPINIONS, UNSIGNED JUDICIAL ORDERS, AND ALLEGED DENIALS OF MOTION FOR REHEARING, IN THE ABSENCE OF ANY SIGNED JUDICIAL ORDER, OR OFFICIAL SIGNED JUDICIAL DIRECTIVE FROM A JUDGE OR THE PANEL JUDGES ALLEGED TO HAVE REVIEWED PETITIONER'S CLAIM OF RELIEF UNDER RULE 60(B)(3-4)

(2) As to Question 2 did the Appellant court clerk improperly dismiss petitioner's claims for relief in violation of F.R.C.P. 58 and 60(b)(3)? The

appendix which is appended to this petition for the court will easily allow the court to make that determination based on the facts supplied to the court by Pro Se petitioner. These documents are in a format that can be easily authenticated and verified and are such that the court can take judicial notice of.

> 3. IS IT NOT TRUE THAT OUR COURTS OF LAW AND EQUITY ARE BOUND UNDER CONTRACT LAW, TO UPHOLD AND ENFORCE THE LAWS OF THE UNITED STATES THE CONSTITUTION, OUR BILL OF RIGHTS, AND THE RULES, STATUTES AND REVISIONS TO THESE LAWS CONTAINED WITHIN THE U.S.C.A. AS OUR CONGRESS ADOPTED AND MADE LAW, PURSUANT TO TITLE 28 U.S.C. § 2072 AND 2074 (A)(B) AS LAST REVISED AND SIGNED INTO LAW 12/1/01 BY THE HONORABLE JAMES F. SENSENBRENNER, THE ESTEEMED CHAIRMAN OF THE COMMITTEE OF THE JUDICIARY COMMITTEE FOR THE 107TH CONGRESS?

(3) question presented - is it not true that our courts of law and equity are bound to under contract law

Pro Se petitioner brings this question to court knowing that the law of reason allows for only one answer. The foundation of this Nation is founded on documents drafted, revised and made law by our founding fathers. These documents include the Declaration of Independence, the Constitution United States. This court cannot deny the existence or the relevance of these documents as they created this Nation by the enactment of these documents on the Fourth day of March 1789 with the promise to lead the people of the United States:

> **WE THE PEOPLE OF THE UNITED STATES, IN ORDER TO FORM A MORE PERFECT UNION, ESTABLISH JUSTICE, AND PROMOTE DOMESTIC TRANQUILITY, PROVIDE FOR THE COMMON DEFENSE, PROMOTE THE GENERAL WELFARE, AND SECURE THE BLESSINGS OF LIBERTY TO OURSELVES AND OUR POSTERITY, DO ORDAIN AND ESTABLISH THIS CONSTITUTION FOR THE UNITED STATES OF AMERICA.**

The key element is the phrase to *establish justice*. The Constitution provides to the people of this Nation rules and regulations enumerated in Titles 1 through 50. These rules specify the contract rules,

and obligations of the government with our citizens. Did the Appellant Court by allegedly and repeatedly allowing the production of unauthenticated opinions and orders divest petitioner of his rights to have a hearing on the merits before the government. Was this done through the abuse of power of the judiciary and its agents working in consort one with another to steal petitioner's home after already taking he his business?

Further did the Appellant Courts breach the contract and faith under Article III and IV of the U.S.C. by failing to the act in good faith in providing legally required discovery??

It is petitioner's position that the evidence presented to the Appellant Court was sufficient to meet the most minimal standards for obtaining relief under F.R.C.P. 60(b). After viewing the evidence in the Appendix whether or not the Supreme Court agrees or not is another matter.

The Court will determined whether the lower Appellant Court gave general consideration to due process of law in rendering its alleged decision for the record.

> Md. Legal Encyclopedia, Volume One, Chapter 11 defines due process of law as a historical product.
>
> *§ 371. General Considerations*
> ***Due process of law is a historical product; recognition of the rule that a person shall not be deprived of his life, liberty, or property without the opportunity to be heard in defense of his right is of ancient origin, being older than written constitutions, and having been interwoven in the common law long prior to the adoption of adoption of the Magna Charta..***
>
> ***The Constitution of the United States provides for due process of law in the Fifth and Fourteenth Amendments.. Also, under the Maryland Declaration of Rights, no person ought to be deprived of his life, liberty, or property, but by the law of the land. The Article of the Maryland Declaration of Rights under discussion and the Fourteenth Amendment to the United States Constitution have the same meaning, and the United States Supreme Court interpretations of the Fourteenth Amendment function as authority***

for interpretation of the Article under discussion.

Heath v. State, 1952, 85 A.2d 43, 198, Md. 455.

Johnson v. State, 1949, 66 A.2d 504, 193, Md. 136.

Once again the justices of this Court will determine whether Pro Se litigants Constitutional rights were infringed upon to an extent that this Court will take remedial action. Petitioner is in the hope that Court will consider all the relevance evidence in support of petitioner cry for relief.

Is it not the duty of the Court and implicit in the right to self representation for the court to make reasonable allowances to protect Pro Se litigants from inadvertent forfeiture of important rights because of their lack of legal training? Traguth v. Zuck. C.A.2.(N.Y.)1983, 710 F2d. 90. Does the record or lack their of, warrant the granting of relief by the Supreme Court United States?

4. . AT WHAT POINT AND UNDER WHAT AMENDMENT WAS F.R.C.P. RULE 28 UNDER TITLE 28 U.S.C. 2072 CHANGED? DID THE CHIEF JUSTICE SUBMIT TO THE HOUSE JUDICIARY COMMITTEE AN OFFICIAL PROPOSED RULE CHANGE TO F.R.C.P. RULE 58 WHICH ABOLISHED THE LEGAL REQUIREMENT THAT OUR COURTS, JUDGES. AND COURT CLERK'S, AUTHENTICATE JUDICIAL ORDERS, OPINIONS, AND DECISIONS, AFFECTING CITIZENS RIGHTS TO PROPERTIES AND TO MAINTAIN SUITS AT LAW IN EQUITY AND TO RECOVER FOR THE LOSS OF THESE VESTED RIGHTS.

(4) F.R.C.P. Rule 28 under Title 28 U.S.C. 2072 and F.R.C.P. Rule 58 do not allow for unsigned orders to act as a rule of law.

Once again, Pro Se petitioner is somewhat confused. Every document, every case, and every piece of law petitioner has reviewed clearly state that judgment orders must meet the requirements of Rule 58.

The requirement of this rule is that judgment be set forth in a separate self-sufficient document. The Supreme Court 1973 pronouncement was that the separate document requirement of Rule 58 is to be "mechanically applied." This Rule applies when courts decide that all relief should be denied, as well upon a decision is made granting relief.

Richland Trust Co. v. Federal Ins Co C.A.6th 1973 ,480 F.2d 1212.

The referenced orders and opinions do not meet these minimal standards.

> *judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number. These entries shall be brief but shall show * * * the substance of each order or judgment of the court * * *.*
>
> *Absence of any separate document setting forth judgment,, except for unsigned transcription of court's oral opinion, constitute deviation from the requirements of this rule relating to entry of judgment. W.G. Cosby Transfer & Storage Corp. V. Froeehikee,, C.A.4th, 1973, 480 F.2d 498.*
>
> *Rule 58 § 2785*
> *The preparation of the separate document containing the judgment and its approval by the court when this is required under Rule 58(2) is only one of the two steps required before a judgment is effective.*

If there is no signature by a judge how can "*approval by the court*" be ascertained?

The orders following the Conclusion are in conflict with this Rule.

Once again Pro Se petitioner must rely on the Court's interpretation as to whether unsigned orders and opinions which are made off of the record, leaving no way to verify the validity of proceedings are valid. The only way available for Pro Se petitioner can locate or find these unpublished rulings is in conflict with the courts application of published laws and rules.

Marbury vs. Madison 1 Cranch 137, 5 U.S. 137, 2 L. Ed 60 (1803).

Petitioner believes that the record speaks for itself. The lodged appendix clearly supports that petitioner has sought to authenticate

revisions of the rules by contacting:

the Office of the Law Revision Counsel
the Administrative Offices of United States Court System
Clerk of the Court of Appeals under the Freedom of Information Act
the United States Senate
Senate Judiciary Committee
the Supreme Court of United States.

These parties either would not answer inquiries or stated that the law that is on the books as of December 1st, 2001, is the law of the land.

The Court cannot refute that Pro Se petitioner has gone to extraordinary lengths to ascertain the validity of courts promoting the use of unsigned orders and unsigned unpublished opinions when denying relief to Pro Se litigants.

The Appellant courts have a history of dismissing Pro Se litigants cases as the exhibits show. They had a hundredfold increase in the last three years of returning cases to the District Court for review. Whether this Court believes these unsigned opinions and orders constitute sufficient grounds for this Court to exercise its authority to protect the constitutional rights of litigants will be decided by this Court's granting or denial of certiorari in this action.

CONCLUSION

Everything about this process from debtor's first fraud in 1987 through the alleged opinion on May 1, 2002. quite frankly stinks of fraud and coverup by the lower courts. Most importantly should this Court manifestly establish that the federal courts are not mere turnstiles when it comes to judicial review of reports concerning Bankruptcy fraud on the courts and creditors by debtor and their counsel, in conflict with the Bankruptcy Reform Act of 1978? This Act requires that courts not look the other way when debtor's misconduct is brought to the court's attention.

Judicial review remains an essential step in assuring the fairness, appropriateness, and impartiality of the bankruptcy and judicial process and the cornerstone of due process at law as we know it.

Based on the record in this case, and the authorities cited above, the petitioner is entitled to relief as a matter of law. In the alternative the petitioner submits that a new trial should be awarded. If this Court decides not to grant relief as a matter of law the record clearly reflects petitioner has requested a jury trial on numerous occasion and has been denied that right. To date, **the merits of petitioner's claims have never been argued in any federal court having jurisdiction over Bankruptcy claims .**

This petitioner is extremely grateful to **the Chief Justice** for accepting jurisdiction over this matter and granting petitioner the right to perfect the record in this Court.

Irrespective of the decision of this Court, once and for all the Court will determine whether judgment debtor is entitled to relief. This decision will ultimately have an impact as to what further remedies petitioner will need to take in his ongoing struggle to regain full title to his home and recoup the loss of his business interests.

Further petitioner has seen firsthand the consequences of the Bankruptcy Court, and the U.S. District Court's refusal to protect victims of Bankruptcy fraud. After watching a fellow citizens who is legally deaf, legally blind, and legally handicapped, be evicted from her home, and made homeless all because the Court failed to provide adequate legal protection for a Pro Se litigant.

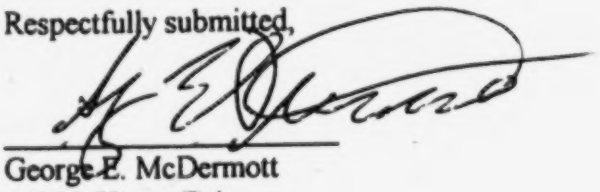
This is a position that petitioner will never surrendered to. Therefore, Pro Se petitioner George E. McDermott respectfully request that this Court grant his petition for Writ of Certiorari to United States Court of Appeals for the Fourth Judicial Circuit has petitioner is entitled to a judgment as a matter of law.

In the alternative, petitioner submits that this Court should order a trial in this matter.

Thank you for your time and attention to this matter.

This petition for a Writ of Certiorari should be granted.

Respectfully submitted,



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UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Filed
June 7, 2002

No. 01-2497
CA-95-3904-MJG
BK-88-42746-PM

Re: ANDREW CLIFFORD MOORE
Debtor

GEORGE E. McDERMOTT
Appellant

v.

ANDREW CLIFFORD MOORE
Appellee

and

OFFICE OF THE UNITED STATES TRUSTEE
Party-in-interest

On Petition for Rehearing En Banc

The appellant's petition for rehearing en banc was submitted to this Court. As no member of this Court requested a poll on the petition for rehearing en banc.

IT IS ORDERED that the petition for rehearing en banc is denied.

APP. 2

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 012497

In Re: ANDREW CLIFFORD MOORE,

Debtor.

GEORGE E. McDERMOTT,

Appellant,

versus

ANDREW CLIFFORD MOORE,

Appellee.

and

OFFICE OF THE UNITED STATES TRUSTEE,

Party-in-Interest.

Appeal from the United States District Court for the District of Maryland, at Baltimore, Marvin J. Garbis, District Judge. (CA-95-3904-MJG, BK-88-42746-PM)

Submitted: April 25, 2002 Decided: May 1, 2002

Before WILLIAMS and King. Circuit Judges, and HAMILTON. Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Janet Marsha Nesse, RILEY & ARTABANE, Washington, D.C. for Appellant.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36 (c).

PER CURIAM:

George E. McDermott appeals from the district court's order denying his motion pursuant to Fed. R. Civ. P. 60(b)(3), to reopen a case in the district court due to fraud. We have reviewed the record and the district court due to fraud. We have revewied the record and the district court's opinion and find no abuse of discretion and no reversible error. Accordingly, we affirm on the reasoning of the district court. See McDermott v. Moore, Nos. CA-95-3904-MJG; BK-88-42746-PM (D. Md. Nov. 30, 2001). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

A True Teste: **AFFIRMED**
Patricia S. Conner
BY S/S
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

In re: *

GEORGE E. McDERMOTT *
Appellant *
vs. * CIVIL ACTION NO. MJG-95-3904
Appeal from Bankruptcy
ANDREW C. MOORE * 88-4-3346 PM
Appellee/Debtor*

* * * * * * * * * *

MEMORANDUM AND ORDER

The Court has before it Appellant's Motion to Reopen Case Citing Bad Faith and Fraud Under Rule 60 (b) (3) and the materials submitted relating thereto. The Court finds that neither a response nor a hearing is necessary.

The said motion is brought under Rule 60 (b) (3) of the Federal Rules of Civil Procedure. Rule 60 (b) provides that a motion made pursuant to Rule 60 (b) (3) must be made "not more than one year after the judgment, order or proceeding was entered or taken." The instant case was closed in the district court by Decision on Appeal on August 26, 1995 affirming the bankruptcy court. The district court action was affirmed by the United States Court of Appeals for the Fourth Circuit on May 5, 1998. The subject motion, filed November 29, 2001 is time barred.

Even if the instant motion were timely filed, it would be denied. Movant has not made a showing in any way warranting the reopening of this long closed case.

For the foregoing reasons:

1. Motion to Reopen Case Citing Bad Faith and Fraud Under Rules 60 (b) (3) is DENIED.

2. This case shall not be reopened.

SO ORDERED this 30TH day of November, 2001.

S/S
Marvin J. Garbis
United States District Judge